

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CHICAGO REGIONAL COUNCIL OF )  
CARPENTERS PENSION FUND, et al., )  
Plaintiffs, ) Case No. 06 C 6992  
v. ) Judge Manning  
J&L CONCRETE, INC., )  
Defendant. )

**MOTION FOR ENTRY OF FINAL JUDGMENT**

Plaintiffs, the CHICAGO REGIONAL COUNCIL OF CARPENTERS PENSION FUND, ET AL. (collectively “Trust Funds”), by their attorney Kevin P. McJessy, hereby move this Court pursuant to Federal Rules of Civil Procedure 54, 55 and 58 to enter a Final judgment against J&L CONCRETE, INC., an Illinois corporation (“Defendant”). In support of their motion, Plaintiffs state as follows:

1. The Trust Funds filed a complaint against the Defendant under ERISA to compel an audit of Defendant’s books and records March 1, 2004 through December 31, 2007, for collection of unpaid contributions, interest, and liquidated damages, and for attorneys’ fees and auditors’ fees pursuant to ERISA, the collective bargaining agreements, and the trust agreements. The complaint was filed on December 19, 2006.

2. On April 18, 2008, the Court ordered Defendant to submit to an audit for the time period March 1, 2004 to December 31, 2007 to determine Defendant’s liability, if any, to the Trust Funds.

3. Defendant failed to cooperate in this matter causing significant delays and requiring Trust Funds’ counsel to file a rule to show cause motion which was continued for

nearly a year while the Defendant repeatedly promised and then failed to cooperate with the audit.

4. Trust Funds' auditors finally completed a preliminary audit based on the books and records provided by Defendant to date.

5. Defendant has failed to pay the amount due based on the audit or to respond to the Audit. A copy of the June 16, 2009 demand letter is attached as Exhibit D.

6. Defendant previously had counsel in this lawsuit. However, Defendant's counsel has withdrawn and Defendant has not obtained other counsel or filed an appearance, nor has Defendant presented any substantive objections to the audit.

7. The amount owed by Defendant based on the audit is \$215,872.50 which includes \$129,099.73 in unpaid contributions, \$35,403.61 in interest, \$25,819.95 in liquidated damages, \$13,580.00 in auditors' fees, and \$11,969.21 in attorneys fees as follows:

- A. \$129,099.73 in unpaid contributions pursuant to the audit; *see* Decl. of J. Libby, ¶6, Exhibit A; Decl. of J. Kemperas, ¶3, Exhibit B;
- B. \$13,580.00 for auditor's fees incurred by the Trust Funds to complete the audit of Defendant's books and records; *see* Decl. of J. Libby, ¶5, Exhibit A; Decl. of J. Kemperas, ¶2, Exhibit B;
- C. \$35,403.61 in interest under ERISA on the amount that is due; *see* 29 U.S.C. § 1132(g)(2)(B); 29 U.S.C. § 1132(g)(2)(C); Decl. of J. Libby, ¶7, Exhibit A; Decl. of J. Kemperas, ¶3, Exhibit B;
- D. \$25,819.95 in liquidated damages; *see* Decl. of J. Libby, ¶7, Exhibit A; and
- E. \$11,969.21 in reasonable attorneys' fees and costs the Trust Funds incurred in this action pursuant to 29 U.S.C. § 1132(g)(1) and/or § 1132(g)(2)(D); *see* McJessy Decl., ¶4, Exhibit C).

8. A proposed draft order is attached as Exhibit E.

WHEREFORE, Plaintiffs the Chicago Regional Council of Carpenters' Fund et al. hereby move this Court to enter judgment in their favor and against Defendant, RFM Enterprises,

Inc., an Illinois corporation doing business as Newgrom Construction Co., in the amount of \$215,872.50 as follows:

- A. \$129,099.73 in unpaid contributions pursuant to the audit;
- B. \$13,580.00 for auditor's fees of incurred by the Trust Funds to complete the audit of Defendant's books and records;
- C. \$35,403.61 in interest under ERISA on the amount that is due;
- D. \$25,819.95 in liquidated damages;
- E. \$11,969.21 in reasonable attorneys' fees and costs the Trust Funds incurred in this action pursuant to 29 U.S.C. § 1132(g)(1) and/or § 1132(g)(2)(D);
- F. reasonable attorney' fees and costs incurred by the Trust Funds in enforcing this order; and
- G. such other relief as this Court deems appropriate.

CHICAGO REGIONAL COUNCIL OF CARPENTERS  
PENSION FUND et al.

By: s/ Kevin P. McJessy  
One of their attorneys

Kevin P. McJessy  
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**CERTIFICATE OF SERVICE**

I, Kevin P. McJessy, an attorney, certify that I caused the foregoing **Motion for Entry of Final Judgment** to be served upon

Christian Vene, President  
J&L Concrete, Inc.  
2235 Shady Lane  
Highland Park, IL 60035

Jeffrey Rose  
Tishler & Wald, Ltd.  
200 S. Wacker Dr., Ste. 3000  
Chicago, IL 60606

via U.S. First Class Mail, postage prepaid, deposited in the United States Mail Depository at 3759 N. Ravenswood, Chicago, Illinois on this 8<sup>th</sup> day of July 2009.

s/ Kevin P. McJessy  
Kevin P. McJessy